

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PATRICIA KAMMEYER, et al.,	:	CASE NO. 1:01cv00649
	:	Judge Spiegel
Plaintiffs,	:	
	:	
vs.	:	
	:	
CITY OF SHARONVILLE, OHIO, et al.,	:	
	:	
Defendants.	:	

**REPLY MEMORANDUM REGARDING DEFENDANTS'
CITATION OF SUPPLEMENTAL AUTHORITY (DOC. 294)**

Remarkably, plaintiffs state in response to Defendants' Citation of Supplemental Authority that the recent decision of the United States Supreme Court in Castle Rock v. Gonzales, _____ S.Ct. _____, 2005 WL 1499788 (June 27, 2005), "touches on none of the issues raised in the instant case." That statement is remarkable because the Supreme Court in Castle Rock specifically stated in the last paragraph of the majority decision that a third party does not have a cause of action based on either substantive or procedural due process as a result of the failure of a government to arrest someone for a crime. That is precisely the cause of action which plaintiffs have presented in this case. Terming the failure of these defendants to arrest the murderer a coverup does not change the claim. Regardless of the reason, the United States Supreme Court has held that a third party does not have a constitutional right to the arrest of another party and cannot make a claim pursuant to either substantive or procedural due process for the failure of a government to make such an arrest. That decision is dispositive of all federal claims in this case.

s/Lawrence E. Barbieri

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CERTIFICATE OF SERVICE

I hereby certify that on **July 20th, 2005**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Alphonse A. Gerhardstein, Esq., **Attorney for Plaintiffs**, 1409 Enquirer Building, 617 Vine Street, Cincinnati, OH 45202, Brian E. Hurley, Crabbe, Brown & James LLP, **Attorneys for Defendant William Nuss**, 30 Garfield Place, Suite 740, Cincinnati, OH 45202-4359, and Kelly Mulloy Myers, Esq., Freking & Betz, 215 E. Ninth Street, Cincinnati, OH 45202, **Attorney for Defendant Cramer**.

s/Lawrence E. Barbieri
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